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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/965,985	09/28/2001	Ryoji Suzuki	YAO-4346US	5163

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Ratner & Prestia  
One Westlakes, Berwyn  
Suite 301  
P.O. Box 980  
Valley Forge, PA 19482-0980

EXAMINER

CATHEY II, PATRICK H

ART UNIT	PAPER NUMBER
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2613

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/965,985	<b>Applicant(s)</b> SUZUKI, RYOJI	
	<b>Examiner</b> Patrick H. Cathey II	<b>Art Unit</b> 2613	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim's 1, 2, 7 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by van den Branden et al. (US 6,011,868).

Van den Branden et al. teaches converting the MPEG video bitstream into the necessary format to generate a video signal (Column 5, lines 33-54). He then teaches detecting and displaying the picture type of a picture, the number of bits calculated and the bit rate calculated from the video stream (Column 14, line 63 to Column 15, line 5). He also teaches displaying the video picture at the same time the data for the picture type, number of bits and bit rate are being calculated and displayed (Column 14, lines 27-36). The bit rate must have an addition section in order to calculate the bit rate because there is a smoothed average bit rate produced from the accumulation of adding and dividing the data (Column 15, lines 1-5).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim's 3-6 and 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over van den Branden et al.

Van den Branden et al. teaches GOP, picture and sequence headers that can be viewed on the display (Column 3, lines 46-51; see also Figure 9). He also show that an I frame comes directly after a GOP header (Column 7, lines 55-59). This shows that the start of the GOP is a new frame because the I-frame is used at the beginning of the GOP. This shows the picture start point of the GOP. The Figures 9-19 show various formats and options that can be displayed on the display. This gives you the option of showing the bit rate and the number of bits on one display (Figure 13) or the option of showing just the bit rate without the number of bits displayed (Figure 9). He also shows a timing means in order to make the calculation of the bit rate because there must be a timing means in order to calculate the smoothed average value (Column 15, lines 1-5). Figure 1 also shows that there is timing in the video bitstream. Although van den Branden et al. fails to specifically teach counting based on a starting point, it appears that frame bit counting can take place for every frame (Figure 13, area 410). Since it appears logical to start counting at the start frame, not within the frame, it would have been obvious to one of ordinary skill to start counting at the start of a frame to get an accurate count.

**Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The remaining unused references show many similarities to what is shown in the claims of this application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick H. Cathey II whose telephone number is (703) 305-4909. The examiner can normally be reached on M-F 7:30 to 5:00 (Every other friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (703) 503-4856. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Patrick H. Cathey II  
Examiner  
Art Unit 2613

PHC

  
CHRIS KELLEY  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600